

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Judy Johnson,

Plaintiff,

v.

The Berkley Group, Inc. and
Caribbean Cruise Line, Inc.,

Defendants.

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: Civil Action No.: 1:12-cv-01184
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COMPLAINT

For this Complaint, the Plaintiff, Judy Johnson, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. This Court has original jurisdiction over Plaintiff's TCPA claims. Mims v. Arrow Fin. Serv., LLC, 132 S.Ct. 740 (2012).
3. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

5. The Plaintiff, Judy Johnson ("Plaintiff"), is an adult individual residing in Austin, Texas.

6. The Defendants, The Berkley Group, Inc. (hereafter “Berkley”) is a Florida business entity with an address of 3015 North Ocean Boulevard, Suite 121, Fort Lauderdale, Florida 33308.

7. Caribbean Cruise Line, Inc. (hereafter “CCL,” and together with Berkley, the “Defendants”), is a Florida business entity with an address of 2419 East Commercial Boulevard, Suite 100, Fort Lauderdale, Florida 33308.

FACTS

8. In or around March 2012, CCL began contacting Plaintiff using an automated telephone dialer system with an artificial or prerecorded voice (hereafter “Robocalls”).

9. CCL placed numerous Robocalls to Plaintiff’s home telephone.

10. Plaintiff has no prior business relationship with CCL and never gave her consent to be contacted at her home telephone.

11. CCL’s Robocalls started with the sound of a horn and continued with a prompt for Plaintiff to stay on the line to win a free cruise to the Bahamas.

A. Plaintiff Suffered Actual Damages

12. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants’ unlawful conduct.

13. As a direct consequence of the Defendants’ acts, practices and conduct, the Plaintiff suffered and continues to suffer from anger and frustration.

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT – 47 U.S.C. § 227, et seq.

14. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. Without prior consent the Defendants made telephone calls to the Plaintiff's residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the Plaintiff in violation of 47 U.S.C. § 227(b)(1)(B).

16. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the Telephone Consumer Protection Act, including every one of the above-cited provisions.

17. The Plaintiff is entitled to damages as a result of the Defendant's violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent TCPA violations;
3. Punitive damages; and
4. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: December 31, 2012

Respectfully submitted,

By: /s/ Sergei Lemberg

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